

104TH CONGRESS  
2D SESSION

# H. R. 3410

To amend the Internal Revenue Code of 1986 to encourage production of oil and gas within the United States, to ease regulatory burdens, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1996

Mr. THORNBERRY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend the Internal Revenue Code of 1986 to encourage production of oil and gas within the United States, to ease regulatory burdens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Energy Independence Act of 1996”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
 2 shall be considered to be made to a section or other provi-  
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—TAX INCENTIVES FOR OIL AND GAS PRODUCTION

Subtitle A—Production Credit

Sec. 101. Tax credit for marginal and new domestic oil and natural gas produc-  
 tion.

Subtitle B—Modifications to Percentage Depletion

Sec. 111. Elimination of net income limitation on percentage depletion for oil  
 and gas.

Sec. 112. All marginal production eligible for percentage depletion.

Sec. 113. Allocation of depletable quantities.

TITLE II—PERCENTAGE DEPLETION RATE FOR MARGINAL  
 PRODUCTION

Sec. 201. Percentage depletion rate for marginal production.

TITLE III—OTHER PROVISIONS

Sec. 301. Election to expense geological and geophysical expenditures.

Sec. 302. Enhanced oil recovery credit.

TITLE IV—6-YEAR PERIOD OF LIMITATION FOR COLLECTION OF  
 OIL AND GAS ROYALTIES

Sec. 401. Period of limitation for collection of oil and gas royalties.

5 **TITLE I—TAX INCENTIVES FOR**  
 6 **OIL AND GAS PRODUCTION**  
 7 **Subtitle A—Production Credit**

8 **SEC. 101. TAX CREDIT FOR MARGINAL AND NEW DOMESTIC**  
 9 **OIL AND NATURAL GAS PRODUCTION.**

10 (a) CREDIT FOR PRODUCING OIL AND GAS FROM  
 11 NEW WELLS AND MARGINAL WELLS.—Subpart D of part  
 12 IV of subchapter A of chapter 1 (relating to business cred-

1 its) is amended by adding at the end the following new  
 2 section:

3 **“SEC. 45C. CREDIT FOR PRODUCING OIL AND GAS FROM**  
 4 **NEW WELLS AND MARGINAL WELLS.**

5 “(a) GENERAL RULE.—For purposes of section 38,  
 6 the new and marginal well production credit for any tax-  
 7 able year is an amount equal to the product of—

8 “(1) the credit amount, and

9 “(2) the qualified crude oil production and the  
 10 qualified natural gas production which is attrib-  
 11 utable to the taxpayer.

12 “(b) CREDIT AMOUNT.—For purposes of this sec-  
 13 tion—

14 “(1) IN GENERAL.—The credit amount is—

15 “(A) \$3 per barrel of qualified crude oil  
 16 production, and

17 “(B) 50 cents per 1,000 cubic feet of  
 18 qualified natural gas production.

19 “(2) REDUCTION AS OIL AND GAS PRICES IN-  
 20 CREASE.—

21 “(A) IN GENERAL.—The \$3 and 50 cents  
 22 amounts under paragraph (1) shall each be re-  
 23 duced (but not below zero) by an amount which  
 24 bears the same ratio to such amount (deter-  
 25 mined without regard to this paragraph) as—

“(i) the excess of the applicable reference price over \$14 (\$2.49 for qualified natural gas production), bears to

“(ii) \$6 (\$1.06 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

“(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1996, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting ‘1995’ for ‘1990’).

“(C) REFERENCE PRICE.—For purposes of this paragraph, the term ‘reference price’ means, with respect to any calendar year—

“(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

1 “(ii) in the case of qualified natural  
 2 gas production, the Secretary’s estimate of  
 3 the annual average wellhead price per  
 4 1,000 cubic feet for all domestic natural  
 5 gas.

6 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS  
 7 PRODUCTION.—For purposes of this section—

8 “(1) IN GENERAL.—The terms ‘qualified crude  
 9 oil production’ and ‘qualified natural gas production’  
 10 mean domestic crude oil or natural gas which is pro-  
 11 duced from—

12 “(A) a marginal well, or

13 “(B) a new well.

14 “(2) LIMITATION ON AMOUNT OF PRODUCTION  
 15 WHICH MAY QUALIFY.—

16 “(A) IN GENERAL.—Crude oil or natural  
 17 gas produced during any taxable year from any  
 18 well shall not be treated as qualified crude oil  
 19 production or qualified natural gas production  
 20 to the extent production from the well during  
 21 the taxable year exceeds—

22 “(i) in the case of a marginal well,  
 23 1,095 barrels or barrel equivalents, or

24 “(ii) in the case of a new well—

1 “(I) 5,475 barrels in the case of  
2 crude oil, or

3 “(II) 32.85 MCF in the case of  
4 natural gas.

5 “(B) SPECIAL RULE WHERE WELL PRO-  
6 DUCES BOTH.—In the case of a new well which  
7 produces crude oil and natural gas, the limita-  
8 tion for any taxable year applicable to natural  
9 gas produced from the well shall be reduced by  
10 the barrel equivalents (expressed in cubic feet)  
11 of the crude oil produced from the well during  
12 the taxable year.

13 “(C) PROPORTIONATE REDUCTIONS.—

14 “(i) SHORT TAXABLE YEARS.—In the  
15 case of a short taxable year, the limitations  
16 under this paragraph shall be proportion-  
17 ately reduced to reflect the ratio which the  
18 number of days in the year bears to 365.

19 “(ii) WELLS NOT IN PRODUCTION EN-  
20 TIRE YEAR.—In the case of a well which is  
21 not capable of production during each day  
22 of a taxable year, the limitations under  
23 this paragraph applicable to the well shall  
24 be proportionately reduced to reflect the  
25 ratio which the number of days of produc-

1                   tion bears to the total number of days in  
2                   the taxable year.

3                   “(3) DEFINITIONS.—

4                   “(A) MARGINAL WELL.—The term ‘mar-  
5                   ginal well’ means a domestic well (other than a  
6                   new well)—

7                   “(i) which during the taxable year has  
8                   marginal production (as defined in section  
9                   613A(c)(6)), or

10                  “(ii) which, during the taxable year—

11                   “(I) has average daily production  
12                   of not more than 25 barrel equiva-  
13                   lents, and

14                   “(II) produces water at a rate  
15                   not less than 95 percent of total well  
16                   effluent.

17                  “(B) NEW WELL.—The term ‘new well’  
18                  means a domestic well drilled after December  
19                  31, 1995.

20                  “(C) CRUDE OIL, ETC.—The terms ‘crude  
21                  oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have  
22                  the meanings given such terms by section  
23                  613A(e).

24                  “(D) BARREL EQUIVALENT.—The term  
25                  ‘barrel equivalent’ means, with respect to natu-

1           ral gas, a conversion ratio of 6,000 cubic feet  
2           of natural gas to 1 barrel of crude oil.

3           “(d) OTHER RULES.—

4           “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-  
5           PAYER.—In the case of a marginal well or new well  
6           in which there is more than one owner of operating  
7           interests in the well and the crude oil or natural gas  
8           production exceeds the limitation under subsection  
9           (c)(2), qualifying crude oil production or qualifying  
10          natural gas production attributable to the taxpayer  
11          shall be determined on the basis of the ratio which  
12          taxpayer’s revenue interest in the production bears  
13          to the aggregate of the revenue interests of all oper-  
14          ating interest owners in the production.

15          “(2) OPERATING INTEREST REQUIRED.—Any  
16          credit under this section may be claimed only on  
17          production which is attributable to the holder of an  
18          operating interest.

19          “(3) PRODUCTION FROM NONCONVENTIONAL  
20          SOURCES EXCLUDED.—In the case of production  
21          from a marginal well which is eligible for the credit  
22          allowed under section 29 for the taxable year, no  
23          credit shall be allowable under this section unless  
24          the taxpayer elects not to claim the credit under sec-  
25          tion 29 with respect to the well.”



1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
 2 tion 38(b) is amended by striking “plus” at the end of  
 3 paragraph (10), by striking the period at the end of para-  
 4 graph (11) and inserting “, plus”, and by adding at the  
 5 end the following new paragraph:

6 “(12) the new and marginal oil and gas well  
 7 production credit determined under section 45C(a).”

8 (c) CREDIT ALLOWED AGAINST REGULAR AND MINI-  
 9 MUM TAX.—

10 (1) IN GENERAL.—Subsection (c) of section 38  
 11 (relating to limitation based on amount of tax) is  
 12 amended by redesignating paragraph (3) as para-  
 13 graph (4) and by inserting after paragraph (2) the  
 14 following new paragraph:

15 “(3) SPECIAL RULES FOR OIL AND GAS PRO-  
 16 Duction CREDIT.—

17 “(A) IN GENERAL.—In the case of the oil  
 18 and gas production credit—

19 “(i) this section and section 39 shall  
 20 be applied separately with respect to the  
 21 credit, and

22 “(ii) in applying paragraph (1) to the  
 23 credit—

24 “(I) subparagraph (A) shall not  
 25 apply, and

1 “(II) the limitation under para-  
 2 graph (1) (as modified by subclause  
 3 (I)) shall be reduced by the credit al-  
 4 lowed under subsection (a) for the  
 5 taxable year (other than the oil and  
 6 gas production credit).

7 “(B) OIL AND GAS PRODUCTION CRED-  
 8 IT.—For purposes of this subsection, the term  
 9 ‘oil and gas production credit’ means the credit  
 10 allowable under subsection (a) by reason of sec-  
 11 tion 45C(a).”

12 (2) CONFORMING AMENDMENT.—Subclause (II)  
 13 of section 38(c)(2)(A)(ii) is amended by inserting  
 14 “or the oil and gas production credit” after “em-  
 15 ployment credit”.

16 (d) COORDINATION WITH SECTION 29.—Section  
 17 29(a) is amended by striking “There” and inserting “At  
 18 the election of the taxpayer, there”.

19 (e) CLERICAL AMENDMENT.—The table of sections  
 20 for subpart D of part IV of subchapter A of chapter 1  
 21 is amended by adding at the end the following item:

“Sec. 45C. Credit for producing oil and gas from new wells and marginal  
 wells.”

22 (f) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to production after the date of the  
 24 enactment of this Act.

**Subtitle B—Modifications to  
Percentage Depletion**

**SEC. 111. ELIMINATION OF NET INCOME LIMITATION ON  
PERCENTAGE DEPLETION FOR OIL AND GAS.**

(a) ELIMINATION.—

(1) IN GENERAL.—Paragraph (1) of subsection (d) of section 613A (relating to the limitation based on taxable income for percentage depletion in the case of oil and gas wells) is repealed.

(2) OTHER PRODUCTION.—The second sentence of subsection (a) of section 613 (relating to percentage depletion) is amended to read as follows: “Except in the case of oil and gas wells, such allowance shall not exceed 50 percent of the taxpayer’s taxable income from the property (computed without allowance for depletion).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

**SEC. 112. ALL MARGINAL PRODUCTION ELIGIBLE FOR PER-  
CENTAGE DEPLETION.**

(a) IN GENERAL.—Paragraph (6) of section 613A(c) (relating to marginal production) is amended to read as follows:

1           “(6) SEPARATE APPLICATION TO MARGINAL  
2 PRODUCTION.—

3           “(A) IN GENERAL.—Except as provided in  
4 subsection (d)—

5                   “(i) the allowance for depletion under  
6 section 611 with respect to all of a tax-  
7 payer’s marginal production of domestic  
8 crude oil and domestic natural gas shall be  
9 computed in accordance with section 613,  
10 except that, for purposes of section 613(a),  
11 the applicable percentage shall be sub-  
12 stituted for the percentage specified in sec-  
13 tion 613(b), and

14                   “(ii) such marginal production shall  
15 not be taken into account under paragraph  
16 (1), including for purposes of determining  
17 the taxpayer’s average daily production of  
18 domestic crude oil or domestic natural gas  
19 eligible for application of paragraph (1).

20           “(B) APPLICABLE PERCENTAGE.—For  
21 purposes of subparagraph (A), the term ‘appli-  
22 cable percentage’ means the percentage (not  
23 greater than 25 percent) equal to the sum of—

24                   “(i) 15 percent, plus

1                   “(ii) 1 percentage point for each  
2                   whole dollar by which \$20 exceeds the ref-  
3                   erence price for crude oil for the calendar  
4                   year preceding the calendar year in which  
5                   the taxable year begins.

6                   For purposes of this paragraph, the term ‘ref-  
7                   erence price’ means, with respect to any cal-  
8                   endar year, the reference price determined for  
9                   such calendar year under section 29(d)(2)(C).

10                  “(C) MARGINAL PRODUCTION.—The term  
11                  ‘marginal production’ means domestic crude oil  
12                  or domestic natural gas which is produced dur-  
13                  ing any taxable year from a property which—

14                         “(i) is a stripper well property for the  
15                         calendar year in which the taxable year be-  
16                         gins, or

17                         “(ii) is a property substantially all of  
18                         the production of which during such cal-  
19                         endar year is heavy oil.

20                  “(D) STRIPPER WELL PROPERTY.—For  
21                  purposes of this paragraph, the term ‘stripper  
22                  well property’ means, with respect to any cal-  
23                  endar year, any property with respect to which  
24                  the amount determined by dividing—

1 “(i) the average daily production of  
 2 domestic crude oil and domestic natural  
 3 gas from producing wells on such property  
 4 for such calendar year, by

5 “(ii) the number of such wells,  
 6 is 15-barrel equivalents or less.

7 “(E) HEAVY OIL.—For purposes of this  
 8 paragraph, the term ‘heavy oil’ means domestic  
 9 crude oil produced from any property if such  
 10 crude oil had a weighted average gravity of 20  
 11 degrees API or less (corrected to 60 degrees  
 12 Fahrenheit).”

13 (b) CONFORMING AMENDMENT.—Paragraph (3) of  
 14 section 613A(c) (defining depletable oil quantity) is  
 15 amended to read as follows:

16 “(3) DEPLETABLE OIL QUANTITY.—For pur-  
 17 poses of paragraph (1), the taxpayer’s depletable oil  
 18 quantity is 1,000 barrels.”

19 (c) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to taxable years beginning after  
 21 December 31, 1995.

22 **SEC. 113. ALLOCATION OF DEPLETABLE QUANTITIES.**

23 (a) IN GENERAL.—Subparagraphs (A) and (B) of  
 24 section 613A(c)(7) (relating to special rules for production  
 25 in excess of depletable quantities) are each amended by

1 inserting “of such quantity allocated to the property by  
 2 the taxpayer, or, if the taxpayer elects not to make the  
 3 allocation, that amount” after “shall be that amount”.

4 (b) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 1995.

7 **TITLE II—PERCENTAGE DEPLE-**  
 8 **TION RATE FOR MARGINAL**  
 9 **PRODUCTION**

10 **SEC. 201. PERCENTAGE DEPLETION RATE FOR MARGINAL**  
 11 **PRODUCTION.**

12 (a) IN GENERAL.—Subparagraph (B) of section  
 13 613A(c)(6), as amended by section 112(a), is amended to  
 14 read as follows:

15 “(B) APPLICABLE PERCENTAGE.—For  
 16 purposes of this paragraph, the term ‘applicable  
 17 percentage’ means 21 percent.”.

18 (b) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to taxable years beginning after  
 20 December 31, 1995.

# 1    **TITLE III—OTHER PROVISIONS**

## 2    **SEC. 301. ELECTION TO EXPENSE GEOLOGICAL AND GEO-** 3                    **PHYSICAL EXPENDITURES.**

4            (a) IN GENERAL.—Section 263 (relating to capital  
 5 expenditures) is amended by adding at the end the follow-  
 6 ing new subsection:

7            “(j) GEOLOGICAL AND GEOPHYSICAL EXPENDI-  
 8 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-  
 9 standing subsection (a), a taxpayer may elect to treat geo-  
 10 logical and geophysical expenses incurred in connection  
 11 with the exploration for, or development of, oil or gas with-  
 12 in the United States (as defined in section 638) as ex-  
 13 penses which are not chargeable to capital account. Any  
 14 expenses so treated shall be allowed as a deduction in the  
 15 taxable year in which paid or incurred.”

16            (b) CONFORMING AMENDMENT.—Section 263A(c)(3)  
 17 is amended by inserting “263(j),” after “263(i),”.

18            (c) EFFECTIVE DATE.—

19                    (1) IN GENERAL.—The amendments made by  
 20 this section shall apply to expenses paid or incurred  
 21 after the date of the enactment of this Act.

22                    (2) TRANSITION RULE.—In the case of any ex-  
 23 penses described in section 263(j) of the Internal  
 24 Revenue Code of 1986 which were paid or incurred  
 25 on or before the date of the enactment of this Act,



1 the taxpayer may elect, at such time and in such  
 2 manner as the Secretary of the Treasury may pre-  
 3 scribe, to amortize the unamortized portion of such  
 4 expenses over the 36-month period beginning with  
 5 the month in which the date of the enactment of  
 6 this Act occurs. For purposes of this paragraph, the  
 7 unamortized portion of any expense is the amount  
 8 remaining unamortized as of the first day of the 36-  
 9 month period.

10 **SEC. 302. ENHANCED OIL RECOVERY CREDIT.**

11 (a) EXPANSION OF PROJECTS ELIGIBLE FOR CRED-  
 12 IT.—

13 (1) IN GENERAL.—Clause (i) of section  
 14 43(c)(2)(A) (defining qualified enhanced oil recovery  
 15 project) is amended to read as follows:

16 “(i) which involves the application (in  
 17 accordance with sound engineering prin-  
 18 ciples) of 1 or more secondary or tertiary  
 19 recovery methods which can reasonably be  
 20 expected to result in more than an insig-  
 21 nificant increase in the amount of crude oil  
 22 or natural gas which ultimately will be re-  
 23 covered,”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Subparagraph (C) of section 43(c)(1)  
 2 is amended to read as follows:

3 “(C) Any cost paid or incurred (whether or  
 4 not chargeable to capital account) for any  
 5 injectant or other costs which are used as part  
 6 of a qualified enhanced oil recovery project,  
 7 other than a recoverable hydrocarbon injectant  
 8 described in section 193(b)(2).”

9 (B) Section 43(c)(4) is amended to read as  
 10 follows:

11 “(4) SECONDARY AND TERTIARY RECOVERY  
 12 METHODS.—For purposes of paragraph (2), second-  
 13 ary and tertiary recovery methods shall include—

14 “(A) tertiary recovery methods described  
 15 in section 193(b)(3),

16 “(B) immiscible nonhydrocarbon gas dis-  
 17 placement, and

18 “(C) other secondary and tertiary recovery  
 19 methods certified in accordance with paragraph  
 20 (2)(B).”

21 (b) CREDIT ALLOWABLE AGAINST MINIMUM TAX.—

22 (1) IN GENERAL.—Subsection (c) of section 38  
 23 (relating to limitation based on amount of tax), as  
 24 amended by section 101(c), is amended by redesign-  
 25 ating paragraph (4) as paragraph (5) and by in-

serting after paragraph (3) the following new paragraph:

“(4) SPECIAL RULES FOR ENHANCED OIL RECOVERY CREDIT.—

“(A) IN GENERAL.—In the case of the enhanced oil recovery credit—

“(i) this section and section 39 shall be applied separately with respect to the credit, and

“(ii) in applying paragraph (1) to the credit—

“(I) subparagraph (A) shall not apply, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the enhanced oil recovery credit).

“(B) ENHANCED OIL RECOVERY CREDIT.—For purposes of this subsection, the term ‘enhanced oil recovery credit’ means the credit allowable under subsection (a) by reason of section 43(a).”

(2) CONFORMING AMENDMENTS.—

1                   (A)       Subclause       (II)       of       section  
 2                   38(c)(2)(A)(ii), as amended by section 101(c),  
 3                   is amended by striking “or the oil and gas pro-  
 4                   duction credit” and inserting “, the oil and gas  
 5                   production credit, or the enhanced oil recovery  
 6                   credit”.

7                   (B)       Subclause       (II)       of       section  
 8                   38(c)(3)(A)(ii) is amended by inserting “or the  
 9                   enhanced oil recovery credit” after “production  
 10                  credit”.

11       (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to taxable years beginning after  
 13 December 31, 1995.

14 **TITLE IV—6-YEAR PERIOD OF**  
 15 **LIMITATION FOR COLLEC-**  
 16 **TION OF OIL AND GAS ROYAL-**  
 17 **TIES**

18 **SEC. 401. PERIOD OF LIMITATION FOR COLLECTION OF OIL**  
 19 **AND GAS ROYALTIES.**

20       (a) IN GENERAL.—Except as provided in subsection  
 21 (b), no administrative proceeding or court action may be  
 22 commenced by the United States for recovery of a royalty  
 23 due under an oil or gas lease entered into under the Act  
 24 entitled “An Act to promote the mining of coal, phosphate,  
 25 oil, oil shale, gas, and sodium on the public domain”, ap-

1 proved February 25, 1920 (commonly known as the Min-  
2 eral Lands Leasing Act) (30 U.S.C. 181 et seq.), the  
3 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et  
4 seq.), or any other law, after the date that is 6 years after  
5 the date on which payment of the royalty becomes due.

6 (b) FALSE OR FRAUDULENT STATEMENTS.—If the  
7 lessee under a lease described in subsection (a) makes a  
8 false or fraudulent statement to an officer or employee of  
9 the United States with intent to evade, in whole or in part,  
10 the payment of a royalty, payment of the royalty shall be  
11 deemed to become due, for the purpose of subsection (a),  
12 on the date on which the United States discovers that the  
13 statement was false or fraudulent.

○